IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8599 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MADHYA GUJ KHEDUT SAMAJ - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR SV RAJU for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1, 4,
MR MD PANDYA for Respondent(s) : 2,
RULE SERVED for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 22/11/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order and/or directions directing the respondents to supply electricity to the farmers as per the provisions of Rule 54 of the Indian Electricity Rules, 1956 and not to charge for the supply of the electricity to the farmers for the period for which the electricity has not been supplied at the voltage prescribed by Rule 54 of the Indian Electricity Rules, 1956 and to direct the respondents to refund to the members of the petitioner association and other farmers, the amount of electricity charges levelled and collected by the respondents for the period for which the electricity is supplied at the voltage below voltage prescribed under Rule 54 of the Indian Electricity Rules, 1956.

2. At the outset, it is required to be noted

that the present petition is of 1989 and the position with regard to the supply of electricity must have been improved / changed. So far as the prayer of the petitioner to direct the respondents not to charge for the supply of electricity to the farmers for the period for which the electricity has not been supplied at the voltage prescribed by Rule 54 of the Indian Electricity Rules, 1956 and direct the respondents to refund to the members of the petitioner society and other farmers the amount of electricity charges levelled and collected by the respondents for the period for which the supply is supplied at the voltage below the voltage prescribed under Rule 54 of the Indian Electricity Rules, 1956 are concerned, the same are disputed question of facts and unless a specific case is made out with regard to the individual village and/or farmers to whom the electricity is supplied at lower voltage, the aforesaid reliefs cannot be granted. It requires

adducing of the evidence and considering the same only, the the aforesaid reliefs can be considered. It is also required to be noted that in the affidavit in reply, the respondents have submitted that the they are not supplying the electricity at lower voltage, which is disputed by Mr.Chetan Pandya, learned advocate appearing on behalf of the petitioner. The electricity is supplied at a lower voltage or not and/or at what lower voltage can be considered only on adducing evidence and same cannot be decided in this petition. The aforesaid questions are the disputed questions of facts which cannot be decided by this Court in exercise of the powers under Article 226 of the Constitution of India. Without going into the merits and on the aforesaid ground alone, the present petition is dismissed. Rule is discharged. However, there will be no order as to costs.

(M.R. SHAH,J.)

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